

CARPENTER POLE & PILING CO., INC.,)	AGBCA No. 2001-163-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Tadd Parsons, Esquire)	
Post Office Drawer 6)	
Wiggins, Mississippi 39577)	
)	
Representing the Government:)	
)	
Barry D. Hersh, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
Federal Building, Room 3201)	
700 West Capitol Avenue)	
Little Rock, Arkansas 72201)	

DECISION OF THE BOARD OF CONTRACT APPEALS

September 11, 2002

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On August 6, 2001, the Board received a notice of appeal filed by Carpenter Pole & Piling Co., Inc., of Wiggins, Mississippi (purchaser), concerning a contract, No. 08-302914, with the respondent, the U. S. Department of Agriculture, Forest Service (Government). The purchaser under the compartment 246/247 timber sale, in the DeSoto Ranger District of the DeSoto National Forest, in Mississippi, had filed a claim to recover \$119,772.52, under its contract awarded at \$762,526.56. The contracting officer denied the claim. This appeal ensued. The purchaser maintains that it is entitled to relief under the contract because the Government erroneously estimated the timber volume of the sale. Specifically, the purchaser asserts that the stem count used to estimate the sale volume reflects the total number of marked trees, including those to be cut and those not to be cut.

The Board has jurisdiction over this dispute pursuant to the Contract Disputes Act of 1978, 41 U.S.C. ' ' 601-613, as amended. The Board held telephone conferences with the parties, who sought to proceed informally in an attempt to ascertain pertinent facts and, perhaps, resolve the dispute. The Board suspended formal proceedings, such that an appeal file, complaint, and answer were not filed with the Board. Thereafter, the parties were made aware of the Board-s decision in Cleereman

Forest Products, AGBCA No. 2000-101-1, 02-1 BCA & 31,664, motion for reconsideration denied, AGBCA No. 2002-106-R, 02-1 BCA & 31,829.

On September 11, 2002, the Board received a letter from the Government indicating that the parties have settled the dispute. As further detailed during a telephone conference of the Board and parties on September 11, the parties agree to a stipulated judgment, which entails full and final settlement of this dispute. The Government offers, and the purchaser accepts, \$81,000. No separate amount will be sought for interest under the CDA or for legal fees under the Equal Access to Justice Act (EAJA). Neither party will appeal this Board's decision which is final.

DECISION

In accordance with the settlement and stipulated judgment, the Board awards the purchaser \$81,000. The agency may pay the amount utilizing the judgment fund, with the agency thereafter reimbursing the fund. 41 U.S.C. ' 612.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
September 11, 2002